THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10145 of 2000

21.6.2007

Between:

Singampalli Govindu, S/o.Appanna

… Petitioner

AND

State of Andhra Pradesh, represented by the Secretary,
Social Welfare (LTR) Department, Secretariat, Hyderabad
And others

… Respondent

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10145 of 2000

ORDER:

The petitioner is a non-tribal. He is a resident of Nadakuduru village of Karapa Mandal in East Godavari District. He claims to be owner of land admeasuring Acs.6.34 in R.S.No.272 situated at Molleru village of Gangavaram Mandal in East Godavari District, which is an agency area. He alleges that he was in possession of the land for many years. The third respondent initiated action under Section 3(2) of Andhra Pradesh Scheduled Areas Land Transfer Regulation, 1959 (the Regulation, for brevity), as amended by Regulation I of 1970. On a complaint given by the Special Deputy Tahsildar (Tribal Welfare), Gangavaram Mandal, a notice was issued to the petitioner alleging that he is in possession of the land in agency area in violation of Section 3(1)(a) of the Regulation. In the said case, the petitioner was shown as third respondent and M/s.Gottumukkala Nagaraju, Gottumukkala Narasimha Raju and two others were shown as respondents 1, 2, 5 and 6. After receiving notice Narasimha Raju deposed that he and his brother are not cultivating the subject lands and that the lands belong to Singampalli Govindu (petitioner herein), and Singampalli Simhachalam, Gollapalli Tatayya and Singampalli Satyanarayana, respondents 3 to 5 before the third respondent. The matter was then reported to Special Deputy Tahsildar (Tribal Welfare), who reported that there is violation of the Regulation. Therefore applying Section 3(1)(a) of the Regulation, third respondent declared the transaction null and void and directed to assign the land to eligible tribals after evicting Gottumukkala Nagaraju and Gottumukkala Narasimha Raju. The petitioner was unsuccessful in his appeal being CMA No.12 of 1995 dated 09.8.1996 before the second respondent. The revision petition filed by the petitioner was also dismissed by the Government vide G.O.Ms.No.95, dated 28.9.1999. The said G.O. is

assailed in this writ petition.

The second respondent filed counter affidavit opposing the writ petition. It is stated that in 1932 during settlement, the land in R.S. No.272 of Molleru village of Gangavaram Mandal in East Godavari District was classified as “Gayyalu” (waste land), that Nagaraju and Narasimha Raju were in illegal occupation of the land and therefore action was initiated. It is also stated that during the enquiry, it was found that the names of Nagaraju and Narasimha Raju were shown as cultivators and therefore the orders were passed by the lower authorities.

Learned Counsel for the petitioner submits that the Regulation I of 1959 has no retrospective effect and therefore the sale deed dated 15.11.1943 pursuant to which Nagaraju and Narasimha Raju came into possession is not hit by the Regulation. He also submits that Narasimha Raju was not in possession of the land and therefore the Regulation I of 1959 could not have been applied.

This Court has perused the orders passed by the original authority, appellate authority as well as the revisional authority. It is revealed that the land classified as “Gayyalu” in R.S.No.272 of Molleru village was being enjoyed by the petitioner and two others, respondents 3 to 5 before the third respondent. They transferred the land to Naga Raju and Narasimha Raju under lease deed in 1972 for a period of 99 years and the Special Deputy Tahsildar, Gangavaram, after verifying the records submitted that Naga Raju and Narasimha Raju were found enjoying the land admeasuring Acs.0.70 each. This is a question of fact. When all the authorities have considered this aspect of the matter and came to the conclusion that the lease in favour of Nagaraju and Narasimha Raju was in contravention of the provisions of the Regulation, the matter must rest there. The authorities cannot be said to have committed any error.

The writ petition, with the above observations, is accordingly dismissed. No costs.

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(**V.V.S.RAO, J**)

June 21, 2007.
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